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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/892,800	06/27/2001	Robert Andrew Byers JR.	1535-001	9649
<div>7590 Lawson, & Persson, P.C. Suite 103 67 Water Street Laconia, NH 03246</div>				
			<div>EXAMINER THEIN, MARIA TERESA T</div>	
			<div>ART UNIT 3627</div>	<div>PAPER NUMBER</div>
			<div>MAIL DATE 09/19/2008</div>	<div>DELIVERY MODE PAPER</div>

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/892,800

Applicant(s)

BYERS ET AL.

Examiner

MARISSA THEIN

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 5, 8, 9, 15, 16, 18, 19, 21-30, 32, 33 and 35-42 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

- 5) ☐ Claim(s) _____ is/are allowed.

- 6) ☒ Claim(s) 1-2, 5, 8-9, 15-16, 18-19, 21-30, 32-33, and 35-42 is/are rejected.

- 7) ☐ Claim(s) _____ is/are objected to.

- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ ~~Notes of Informal Patent Application~~
6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

Applicants' "Response to Office Action" filed on March 24, 2008 has been considered.

Claims 1-2, 5, 8-9, 15-16, 18-19, 21-30, 32-33, and 35-42 are pending in this application.

37 U.S.C. 1.131 Declaration

The Declaration filed on March 24, 2008 under 37 CFR 1.131 has been considered but is ineffective to overcome the Wilner et al. (U.S. Patent Application Publication 2002/0065736) reference.

The declaration does not contain an allegation that the acts relied upon to establish the date prior to the reference or activity were carried out in this country or in a NAFTA country or WTO member country. (See MPEP 715.07(c) and 35 U.S.C. 104). Applicants show no facts in the Byer Declaration of completing the invention in this country or a NAFTA or WTO member country.

Otherwise, the Declaration would be considered effective in antedating the Wilner reference.

Examiner has maintained the first rejection and has included a second rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-2, 5, 9, 15-16, 18-19, 21-30, 32-33 and 35-42 are rejected under 35

U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,970,475 to Barnes in view of U.S. Patent Application Publication No. 2002/0065736 to Willner et al.

Regarding claim 1, Barnes discloses a method for selling products over an electronic network, the method consisting of the steps of:

identifying a user (see at least col. 6, lines 38-40; col. 6, lines 45-48);

transmitting a user specific order entry form (old requisition request, Figure 1), the order entry form comprising at least one user specific product, a user specific price for the at least one product and a quantity entry field (see at least col. 6, lines 54-65; col. 9, lines 33-35; col. 9, lines 51-54; col. 19, lines 56-58; Figure 11), wherein the user specific order entry form comprises a user specific purchase history form comprising all products that were purchased (Repeat from an old Requisition Request 133, Figure 11);

receiving a quantity of at least one product entered into the quantity entry field by the user (see at least col. 18, lines 42-44; col. 21, lines 48-50, Figure 11);

transmitting a shopping cart comprising each of the at least one product selected by the user (see at least col. 18, lines 45-54; col. 22, lines 46-54; Figure 11; and

receiving an instruction from the user to process an order (see at least col. 22, lines 46-61; Figure 11).

However, Barnes does not explicitly disclose wherein the quantity entry field is the only field on the user specific order entry form in which entry of data by the user is

required purchase the at least one product. Barnes discloses making a purchase and using a repeat from an old requisition request (Figure 11). The requisition request in Barnes is used as a purchase order to suppliers (col. 9, lines 33-34). The repeat from an old requisition request can be edited, which can include the quantity (Figure 11).

Willner, on the other hand, teaches the quantity entry field is the only filed on the user specific order entry form in which entry of data by the user is required purchase the at least one product (Figure 6B; Figure 11; paragraph 20).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Barnes, to include the quantity entry field is the only filed on the user specific order entry form in which entry of data by the user is required purchase the at least one product, as taught by Willner, in order to have an organize way of purchasing goods and services (Willner paragraph 9), thus providing an ordering method that is not a time-consuming process (paragraph 7).

Regarding claims 2-5, Barnes discloses the user specific entry form that further comprises an internal part number associated with at least one previously ordered product (see at least Ref. no. 133, Figure 11; col. 22, lines 48-49); and a user specific order entry form that further comprises at least one previously quoted product (see at least Figures 11-12; col. 22, lines 46-53).

Regarding claims 8, Barnes substantially discloses the claimed invention, however, Barnes does not disclose purchasing form comprises a total of the at least one previously ordered product that was purchased during the specified time period.

Barnes discloses all users can view status and history of orders and generate reports (see at least Figures 11-12; col. 22, lines 46-53). Furthermore, Barnes discloses the Bank server can provide various reports on Customer transactions, where all ACH transactions have a full event history (see at least col. 18, lines 23-30). Moreover, Barnes discloses the customer or buyer has access to select audit existing reports or access "user-defined reports" at which the user can define in a format that is useful to the user (see at least col. 23, lines 43-48). Willner, on the other hand, teaches the total of the at least one previously ordered product that was purchased during the specified time period (paragraphs 58-59; paragraph 70).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Barnes to include the total of the at least one previously ordered product that was purchased during the specified time period, as taught by Willner, in order to have an organize way of purchasing goods and services (Willner paragraph 9), thus providing an ordering method that is not a time-consuming process (paragraph 7).

Regarding claim 9, Barnes discloses an icon having a link to a product information order entry form (see at least col. 22, line 46-col. 23, line 22; Figures 9, 11-13).

Regarding claim 15, Barnes discloses a computer program product for selling products over an electronic network, the computer program product comprising:
means for identifying a user (see at least col. 6, lines 38-40; col. 6, lines 45-48);

means for transmitting a user specific order entry form (old requisition request, Figure 1), the order entry form comprising at least one user specific product, a user specific price for the at least one product and a quantity entry field (see at least col. 6, lines 54-65; col. 9, lines 33-35; col. 9, lines 51-54; col. 19, lines 56-58; Figure 11), wherein the user specific order entry form comprises a user specific purchase history form comprising all products that were purchased during a specified time period (Repeat from an old Requisition Request 133, Figure 11);

means for receiving a quantity of at least one product entered into the quantity entry field by the user (see at least col. 18, lines 42-44; col. 21, lines 48-50, Figure 11);

means for transmitting a shopping cart comprising each of the at least one product selected by the user (see at least col. 18, lines 45-54; col. 22, lines 46-54; Figure 11; and

means for receiving an instruction from the user to process an order (see at least col. 22, lines 46-61; Figure 11).

However, Barnes does not explicitly disclose wherein the specified time period and the quantity entry field is the only field on the user specific order entry form in which entry of data by the user is required purchase the at least one product. Barnes discloses making a purchase and using a repeat from an old requisition request (Figure 11). The requisition request in Barnes is used as a purchase order to suppliers (col. 9, lines 33-34). The repeat from an old requisition request can be edited, which can include the quantity (Figure 11).

Willner, on the other hand, teaches the specified time period and the quantity entry field is the only field on the user specific order entry form in which entry of data by the user is required purchase the at least one product (Figure 6B; Figure 11; paragraph 20; paragraph 59; paragraph 70).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the computer program product of Barnes, to include the quantity entry field is the only field on the user specific order entry form in which entry of data by the user is required purchase the at least one product, as taught by Willner, in order to have an organized way of purchasing goods and services (Willner paragraph 9), thus providing an ordering method that is not a time-consuming process (paragraph 7).

Regarding claims 16 and 18-19, Barnes discloses the user specific entry form that further comprises an internal part number associated with at least one previously ordered product (see at least Ref. no. 133, Figure 11; col. 22, lines 48-49); transmitting a user specific order template that further comprises a new product entry field (see at least Figures 11-12; col. 22, lines 46-53); and a user specific order template, the order template further comprising at least one previously quoted product (see at least Figures 11-12; col. 22, lines 46-53).

Regarding claims 21-22, Barnes substantially discloses the claimed invention, however, Barnes does not disclose means for displaying a date range form; means for receiving a data entered into the said data entry field by the user; and a total of the at least one previously ordered product that was purchased during the specified time period.

Barnes discloses a repeat old requisition request (Figure 11). Furthermore, Barnes discloses all users can view status and history of orders and generate reports (see at least Figures 11-12; col. 22, lines 46-53). Moreover, Barnes discloses the customer or buyer has access to select audit existing reports or access "user-defined reports" at which the user can define in a format that is useful to the user (see at least col. 23, lines 43-48). Willner, on the other hand, teaches means for displaying a date range form; means for receiving a data entered into the said data entry field by the user; and the total of the at least one previously ordered product that was purchased during the specified time period (paragraphs 58-59; paragraph 70).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Barnes to include the date range form; means for receiving a data entered; and the total of the at least one previously ordered product that was purchased during the specified time period, as taught by Willner, in order to have an organize way of purchasing goods and services (Willner paragraph 9), thus providing an ordering method that is not a time-consuming process (paragraph 7).

Regarding claims 23-25, Barnes discloses an icon having a link to a product information order entry form; an icon having a link to a peer review form; and an icon having a link to a product protocol form (see at least col. 22, line 46-col. 23, line 22; Figures 9, 11-13).

Regarding claims 26-28, Barnes discloses sort filed; transmitting a payment option form and receiving an instruction from the user to utilize a specified payment option; and transmitting a facility option form and receiving an instruction from the user

to utilized a specified facility option (see at least col. 8, lines 36-61; col. 18, lines 42-55; col. 23, lines 36-43; col. 25, lines 26-40).

Regarding claims 29-30 and 32-33, the claims recite a system that are parallel in scope to claims 15-16 and 18-19 above and are rejected under similar grounds.

Regarding claims 35-36, the claims recite a system that are parallel in scope to claims 21-22 above and are rejected under similar grounds.

Regarding claims 37-42, the claims recite a system that are parallel in scope to claims 23-28 above and are rejected under similar grounds.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 5, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,970,475 to Barnes in view of U.S. Patent No. 7,080,070 to Gavarini.

Regarding claim 1, Barnes discloses a method for selling products over an electronic network, the method consisting of the steps of:

identifying a user (see at least col. 6, lines 38-40; col. 6, lines 45-48);

transmitting a user specific order entry form (old requisition request, Figure 1), the order entry form comprising at least one user specific product, a user specific price for the at least one product and a quantity entry field (see at least col. 6, lines 54-65;

col. 9, lines 33-35; col. 9, lines 51-54; col. 19, lines 56-58; Figure 11), wherein the user specific order entry form comprises a user specific purchase history form comprising all products that were purchased (Repeat from an old Requisition Request 133, Figure 11);

receiving a quantity of at least one product entered into the quantity entry field by the user (see at least col. 18, lines 42-44; col. 21, lines 48-50, Figure 11);

transmitting a shopping cart comprising each of the at least one product selected by the user (see at least col. 18, lines 45-54; col. 22, lines 46-54; Figure 11; and

receiving an instruction from the user to process an order (see at least col. 22, lines 46-61; Figure 11).

However, Barnes does not explicitly disclose wherein the quantity entry field is the only field on the user specific order entry form in which entry of data by the user is required purchase the at least one product. Barnes discloses making a purchase and using a repeat from an old requisition request (Figure 11). The requisition request in Barnes is used as a purchase order to suppliers (col. 9, lines 33-34). The repeat from an old requisition request can be edited, which can include the quantity (Figure 11).

Gavarini, on the other hand, teaches the quantity entry field is the only field on the user specific order entry form in which entry of data by the user is required purchase the at least one product (Figure 18; col. 8, lines 59-61).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Barnes, to include the quantity entry field is the only field on the user specific order entry form in which entry of data by the user is required purchase the at least one product, as taught by Gavarini, in order to modify the

selected item quantities from the past transaction (Gavarini, col. 8, lines 60-61), resulting in a substantial savings in both time and administrative costs for both the customer and merchant (Gavarini, col. 9, lines 3-5)..

Regarding claims 2-5, Barnes discloses the user specific entry form that further comprises an internal part number associated with at least one previously ordered product (see at least Ref. no. 133, Figure 11; col. 22, lines 48-49); and a user specific order entry form that further comprises at least one previously quoted product (see at least Figures 11-12; col. 22, lines 46-53).

Regarding claim 9, Barnes discloses an icon having a link to a product information order entry form (see at least col. 22, line 46-col. 23, line 22; Figures 9, 11-13).

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,970,475 to Barnes and U.S. Patent No. 7,080,070 to Gavarini as applied to claim 1 above, and further in view of U.S. Patent No. 6,343,275 to Wong.

Regarding claims 8, Barnes and Gavarini substantially disclose the claimed invention, however, the combination does not disclose a total of the at least one previously ordered product that was purchased during the specified time period.

The combination discloses all users can view status and history of orders and generate reports (Barnes, see at least Figures 11-12; col. 22, lines 46-53). Furthermore, the combination discloses the Bank server can provide various reports on Customer transactions, where all ACH transactions have a full event history (Barnes, see at least col. 18, lines 23-30). Moreover, the combination discloses the customer or

buyer has access to select audit existing reports or access "user-defined reports" at which the user can define in a format that is useful to the user (Barnes, see at least col. 23, lines 43-48). The combination discloses the use and modification of the selected item quantities from the past transaction (Gavarini, col. 8, lines 59-61). The customer can recall past transaction and use them as a template for the current order (Gavarini, col. 8, lines 65-66).

Wong, on the other hand, teaches the total of the at least one previously ordered product that was purchased during the specified time period (Figure 34; Figure 35 (35A-35D; col. 17, lines 21-29).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination to include the total of the at least one previously ordered product that was purchased during the specified time period, as taught by Wong, in order to find and display the products purchased within a specified time window of a specified date (Wong, col. 17, lines 24-25).

Claims 15-16, 18-19, 21-30, 32-33 and 35-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,970,475 to Barnes in view of U.S. Patent No. 7,080,070 to Gavarini and in further view of U.S. Patent No. 6,343,275 to Wong.

Regarding claim 15, Barnes discloses a computer program product for selling products over an electronic network, the computer program product comprising:

means for identifying a user (see at least col. 6, lines 38-40; col. 6, lines 45-48);

means for transmitting a user specific order entry form (old requisition request, Figure 1), the order entry form comprising at least one user specific product, a user specific price for the at least one product and a quantity entry field (see at least col. 6, lines 54-65; col. 9, lines 33-35; col. 9, lines 51-54; col. 19, lines 56-58; Figure 11), wherein the user specific order entry form comprises a user specific purchase history form comprising all products that were purchased during a specified time period (Repeat from an old Requisition Request 133, Figure 11);

means for receiving a quantity of at least one product entered into the quantity entry field by the user (see at least col. 18, lines 42-44; col. 21, lines 48-50, Figure 11);

means for transmitting a shopping cart comprising each of the at least one product selected by the user (see at least col. 18, lines 45-54; col. 22, lines 46-54; Figure 11; and

means for receiving an instruction from the user to process an order (see at least col. 22, lines 46-61; Figure 11).

However, Barnes does not explicitly disclose wherein the specified time period and the quantity entry field is the only field on the user specific order entry form in which entry of data by the user is required purchase the at least one product. Barnes discloses making a purchase and using a repeat from an old requisition request (Figure 11). The requisition request in Barnes is used as a purchase order to suppliers (col. 9, lines 33-34). The repeat from an old requisition request can be edited, which can include the quantity (Figure 11).

Gavarini, on the other hand, teaches the quantity entry field is the only field on the user specific order entry form in which entry of data by the user is required purchase the at least one product (Figure 18; col. 8, lines 59-61).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Barnes, to include the quantity entry field is the only field on the user specific order entry form in which entry of data by the user is required purchase the at least one product, as taught by Gavarini, in order to modify the selected item quantities from the past transaction (Gavarini, col. 8, lines 60-61), resulting in a substantial savings in both time and administrative costs for both the customer and merchant (Gavarini, col. 9, lines 3-5).

Wong, on the other hand, teaches the total of the at least one previously ordered product that was purchased during the specified time period (Figure 34; Figure 35 (35A-35D; col. 17, lines 21-29).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination to include the total of the at least one previously ordered product that was purchased during the specified time period, as taught by Wong, in order to find and display the products purchased within a specified time window of a specified date (Wong, col. 17, lines 24-25).

Regarding claims 16 and 18-19, Barnes discloses the user specific entry form that further comprises an internal part number associated with at least one previously ordered product (see at least Ref. no. 133, Figure 11; col. 22, lines 48-49); transmitting a user specific order template that further comprises a new product entry field (see at

least Figures 11-12; col. 22, lines 46-53); and a user specific order template, the order template further comprising at least one previously quoted product (see at least Figures 11-12; col. 22, lines 46-53).

Regarding claims 21-22, Barnes substantially discloses the claimed invention, however, Barnes does not disclose means for displaying a date range form; means for receiving a data entered into the said data entry field by the user; and a total of the at least one previously ordered product that was purchased during the specified time period.

Barnes discloses a repeat old requisition request (Figure 11). Furthermore, Barnes discloses all users can view status and history of orders and generate reports (see at least Figures 11-12; col. 22, lines 46-53). Moreover, Barnes discloses the customer or buyer has access to select audit existing reports or access "user-defined reports" at which the user can define in a format that is useful to the user (see at least col. 23, lines 43-48).

Gavarini, on the other hand, teaches means for receiving a data entered into the said data entry field by the user (Figure 18; col. 8, lines 59-61).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Barnes, to include the means for receiving a data entered into the said data entry field by the user, as taught by Gavarini, in order to modify the selected item quantities from the past transaction (Gavarini, col. 8, lines 60-61), resulting in a substantial savings in both time and administrative costs for both the customer and merchant (Gavarini, col. 9, lines 3-5).

Wong, on the other hand, teaches means for displaying a date range form; and a total of the at least one previously ordered product that was purchased during the specified time period (Figure 34; Figure 35 (35A-35D; col. 17, lines 21-29).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the Barnes, to include means for displaying a date range form; and a total of the at least one previously ordered product that was purchased during the specified time period, a taught by Won, in order to find and display the products purchased within a specified time window of a specified date (Wong, col. 17, lines 24-25).

Regarding claims 23-25, Barnes discloses an icon having a link to a product information order entry form; an icon having a link to a peer review form; and an icon having a link to a product protocol form (see at least col. 22, line 46-col. 23, line 22; Figures 9, 11-13).

Regarding claims 26-28, Barnes discloses sort filed; transmitting a payment option form and receiving an instruction from the user to utilize a specified payment option; and transmitting a facility option form and receiving an instruction from the user to utilized a specified facility option (see at least col. 8, lines 36-61; col. 18, lines 42-55; col. 23, lines 36-43; col. 25, lines 26-40).

Regarding claims 29-30 and 32-33, the claims recite a system that are parallel in scope to claims 15-16 and 18-19 above and are rejected under similar grounds.

Regarding claims 35-36, the claims recite a system that are parallel in scope to claims 21-22 above and are rejected under similar grounds.

Regarding claims 37-42, the claims recite a system that are parallel in scope to claims 23-28 above and are rejected under similar grounds.

37 U.S.C. 1.132 Declaration

The Declaration under 37 CFR 1.132 filed March 24, 2008 is insufficient to overcome the rejection of claims 1, 2, 5, 8-9, 15-16, 18-19, 21-30, 32-33, and 35-42 based upon a specific reference applied under 35 U.S.C. 103 as set forth in the last Office action because:

The Examiner takes note of the fact that the Declaration of Kenneth R. Taylor only offers an opinion that the claims are patentable. Although factual evidence is preferable to opinion testimony, such testimony is entitled to consideration and some weight so long as the opinion is not on the ultimate legal conclusion at issue. Mr. Taylor's declaration of "I declare that the Barnes references does not disclose or suggest a user specific purchase history....I declare that a repeat of an old requisition request..." in paragraph 5; "I would not be motivated to modify the Barnes reference..." in paragraph 6; "I would not be motivated to combine the Barnes and Wilner references...I declare that each of these ways of placing an order is time consuming..." in paragraph 7; "I declare that the Wilner references teaches away... I declare that , were such a feature included or suggested, that there would be no need for the compatibility check..." in paragraph 8; and "I declare that a method...It is my belief that the applicants...It is likewise by belief.." in paragraph 9 are opinions that are legal conclusion and lack factual support. Therefore, the Declaration was found not to be persuasive because the opinions are legal conclusions and lack factual support. If the

only facts of record pertaining to the level of skill in the art are found within the prior art of record, the court has held that an invention may be held to have been obvious without a specific finding of a particular level of skill where the prior art itself reflects an appropriate level. *Chore-Time Equipment, Inc. v. Cumberland Corp.*, 713 F.2d 774, 218 USPQ 673 (Fed. Cir. 1983). See also *Okajima v. Bourdeau*, 261 F.3d 1350, 1355, 59 USPQ2d 1795, 1797 (Fed. Cir. 2001). Furthermore, Mr. Taylor's declaration does not include statements of evidence of unexpected results, commercial success, solution of a long-felt need, inoperability of the prior art and allegations that the author(s) of the prior art derived the disclosed subject matter from the applicant. (See 716.01(c))

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARISSA THEIN whose telephone number is (571)272-6764. The examiner can normally be reached on M-F 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Mtot /M. T./
Examiner, Art Unit 3627
September 15, 2008

/F. Ryan Zeender/

Supervisory Patent Examiner, Art Unit 3627